

REMARKS/ARGUMENTS

Examiner's concern regarding title of application

The applicant was not sure exactly where to “amend” the application by inserting the title, so the applicant merely added it to the first page. The applicant asks that the Examiner move it to a more appropriate page if it needs to be so placed.

Examiner's first objection:

Claims 2 and 4 have been modified to get rid of the word “foot.”

Examiner's first rejection:

The Examiner has rejected claims 2-3 under 35 U.S.C. 102(b) as being anticipated by Ratcliff (US 4,575,804). The Applicant disagrees with this basis for rejection, as noted below.

The buttons on the prior art disclosed in the Ratcliff prior art reference do not allow for determination of calories based solely on a “weight” measure – it appears to be more determined by a particular serving of an item, whether this serving be determined by a unit, size, or other such measurement. Therefore, the Ratcliff prior art reference does not anticipate claim 2 of the present invention.

Claim 3 is directly derivative of claim 1. As a claim that is derivative of a claim that is believed to be in condition for allowance, claim 3 also is in condition for allowance due to the fact that it contains all limitations inherent in the base claim. Therefore, applicant believes he has traversed this rejection as well for claim 3.

Examiner's second rejection:

The Examiner has rejected claims 1 and 4-12 under 35 U.S.C. 103(a) as being obvious over Ratcliff (US 4,575,804) in view of Boylan (C.N. 2,198,783). The Applicant disagrees with this basis for rejection, as noted below.

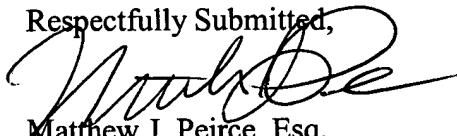
It would not be obvious for an individual who is skilled in the art to which the invention pertains to come across the Boylan prior art reference. Therefore, it would not be obvious to combine the references in the manner suggested. Therefore, the applicant believes she has traversed this basis of rejection for claims 1 and 4.

Claims 5-12 are directly or indirectly derivative of claim 4. As claims that are derivative of a claim that is believed to be in condition for allowance, claims 5-12 also are in condition for allowance due to the fact that they contains all limitations inherent in the base claim. Therefore, applicant believes he has traversed this rejection as well for claims 5-12.

CONCLUSION

For all of the above-described reasons, applicant submits that the specifications and claims are now in proper form, and that the claims define patentability over the prior art. In addition, applicant believes that her arguments in the "Remarks" section successfully traverses the objections and rejections brought forth by the Examiner in the Office Action. Therefore, the applicant respectfully submits that this application is now in condition for allowance, which action she respectfully solicits. If the Examiner feels that some of the dependent claims are allowable, the Applicant asks the Examiner to allow the Applicant to make any amendments to the allowed claims to incorporate all the limitations of the base claim and any intervening claims.

Respectfully Submitted,



Matthew J. Peirce, Esq.

Registration No. #41,245

Attorney for Inventor Vicki Jo Hardesty